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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,909	07/25/2003	Robert S. Fielmann	40164-10009	3456
21788	7590	05/14/2007		
RYNDAK & SURI LLP 200 W. MADISON STREET SUITE 2100 CHICAGO, IL 60606			EXAMINER LIEU, JULIE BICHNGOC	
			ART UNIT	PAPER NUMBER
			2612	
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			05/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/627,909

Applicant(s)

FIELMANN, ROBERT S.

Examiner

Julie Lieu

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-18 and 20 is/are rejected.
- 7) ☒ Claim(s) 13 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office action is in response to Applicant's response and affidavit filed February 19, 2007. Claims 10, 13, 18, and 19 have been amended. New claim 20 has been added.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 20 is rejected under 35 U.S.C. 101 because a person's awareness of the presence of the door is not discreet and tangible.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5. Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification, as originally filed, fails to disclose how a person's awareness would be detected so that it would be determined whether the person is unaware of the presence of the door.

Claim Rejections - 35 USC § 103

6. Claims 1-12 are again rejected under 35 U.S.C. 103(a) as being anticipated over Nykerk (US Patent 4,987,402).

Claim 1:

Nykerk discloses that there is a wide variety of available devices for detecting the presence of a person near a door and for providing a warning of the presence at a door when the person is in close proximity to the door, comprising:

- a. a detector device 59 having a detection range for being positioned in at least close proximity to a door in a position to detect the person in close proximity to the door and within the detection range of the detector device; and
- b. an audio alarm device, an alarm, for providing an audible warning to the person in proximity to the door, the audible alarm device associated with the detector device so that

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the audible alarm device provides the audible warning in response to the detection of the person by the detector device.

See fig. 4 and abstract.

The reference fails to clearly disclose the specific detection range of the detector device is less than 5ft and whether the door is substantially transparent. However, a detection range of less than 5ft is conventional in the art since the system is desired to detect a person within close proximity to the door so that false warning would not be triggered in the case that passer-bys only passes by the vehicle. Therefore, one skilled in the art would have readily recognized to use a detection range of 5ft as desired.

Claim 2:

Nykerk suggests the use of different detection devices including motion detectors.

Claim 3:

The detector disclosed in Nykerk comprises a body heat sensitive detector, i.e. infrared detectors (INVISIBEAM).

Claim 4:

Nykerk discloses a voice module to record voice messages to warn a person approaching the door of the presence of the door. See abstract and col. 6, last paragraph.

Claim 5:

Nykerk discloses a controller for the motion detector for adjusting the detection range of the motion detector device. See col. 4, last paragraph and col. 10, second paragraph.

Claims 6 and 8-10:

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Nykerk fails to discuss in details the configuration of the detector device and the audible alarm device in conventional system as to whether or not they are not contained within the same housing or pouch. Nonetheless, the integration of parts in the same housing would not be considered an inventive step because the function of the device would not thereby be modified. It would have been obvious to one skilled in the art to use an attractive shape for the device because aesthetic is always preferred.

Claim 11:

Nykerk disclose a self-contained power supply 11.

Claim 12:

Nykerk fails to disclose specifically that the volume of the audible alarm system can be adjusted. However, one skilled in the art would have readily recognized providing this feature in the system disclosed in Nykerk because of convenience.

7. Claims 14-19 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Nykerk (US Patent 4,987,402) in view of Thacker (US Patent No. 6,359,564).

Claim 14-18:

The rejection of these claims recites the discussion in the rejection of claims 1-12, except they are method claims.

Claim 19:

In Thacker, when no motion is detected and a person is absent in the workspace, the alarm is shut off and automatically resets itself to provide warning when motion is again detected. Col. 4, lines 42-53.

Applicant's Arguments

8. The Applicant has presented the following arguments:

Argument 1:

“Independent claims 1 and 14 both require that a detector device be mounted in at least close proximity to an at least substantially transparent door. Nykerk discloses a car alarm. Nykerk does not disclose or suggest an at least substantially transparent door. The subject matter of car alarms does not suggest an at least substantially transparent door because among other reasons, cars do not have an at least substantially transparent door. Nor is there a danger of people running or walking through a car door. The car itself provides ample notice of its presence. The device of Nykerk is an automobile alarm, the purpose of which is to detect unauthorized approach, not to warn a person of impending danger.”

Argument 2:

Thacker discloses an occupancy status indicator for a cubicle. Cubicles do not have doors never mind substantially transparent doors. The subject matter of occupancy status indicators does not suggest an at least substantially transparent door because occupancy status indicators are generally used with opaque doors as in photography dark rooms and bathrooms. Therefore, the invention, requiring a detection device in at least close proximity to a substantially transparent door as claimed, is not taught or suggested by any combination of the references.

Argument 3:

Claims 10 and 18 both further require that a visually attractive shape having a pouch be removably mounted to an at least substantially transparent door and that the detector device be placed in the pouch. As Nykerk does not disclose an at least substantially transparent door and Thacker does not disclose a door, Nykerk and Thacker both fail to disclose, teach or suggest this limitation. In addition, they both fail to disclose a visually attractive shape for passively warning a person of the door. Moreover, both Nykerk and Thacker do not suggest such a visually attractive shape because such a shape does not provide the benefit of indicating an at least substantially transparent door in Nykerk and Thacker.

Argument 4:

Claim 20 further requires "detecting the person approaching the door, wherein the person is unaware of the door." Neither Nykerk nor Thacker disclose, teach or suggest this limitation.

Response to Applicant's Arguments

9. Applicant's arguments filed February 19, 2007 have been fully considered but they are not persuasive.

Response to Argument 1:

It is submitted that any regular passenger vehicle such as that in Nykerk has partly transparent portion, that is, the openable part (window) of the door. It is further submitted that the danger that a person would as disclosed in Nykerk is the risk of setting off a theft alarm while it is not necessary the case since a passerby may just walk near the vehicle. Furthermore the claim does not recite that the alarm is to warn a person of the impending danger. It only states that the alarm warns a person of the presence of a door which a person should be cautious about.

Response to Argument 2:

The use of Thacker is to show a teaching that the concept of an alarm that automatically turns itself off after a predetermined period of time to save energy is conventional in the art and one skilled in the art would have readily recognized applying this concept in the Nykerk system to save energy.

Response to Argument 3:

Though Nykerk and Thacker do not suggest such a visually attractive shape because such a shape does not provide the benefit of indicating an at least substantially transparent door in Nykerk and Thacker, it would have been obvious to one skilled in the art to use an attractive shape for the device because aesthetic is always preferred.

Response to Argument 4:

The response to this argument has been addressed in the rejection above.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Julie Lieu', with a long horizontal flourish extending to the right.

Julie Lieu
Primary Examiner
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May 07, 07